

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI PRASHANT MAHARISHI,
ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 4485/MUM/2023
(Assessment Year : 2017-18)**

Smt. Manisha Shivaji Kadukar (Legal heir of Late Shri Shivaji Maruty Kadukar) Room no. 4, Globe Mill School Comp, NM Joshi, Near Dipak Cinema, Mumbai 400013.	V.	Assistant Commissioner of Income Tax Circle-34(3), Room no. 832, 8 th Floor, Kautilya Bhavan, G Block, BKC, Bandra (East), Mumbai 400051
PAN/GIR No. AMKPK7142F		
(Appellant)	..	(Respondent)

Assessee by	Mr. Ravikant Pathak
Revenue by	Smt. Mahita Nair (SR. DR.)
Date of Hearing	15/05/2024
Date of Pronouncement	27/05/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 18.10.2023 passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC) [hereinafter referred as the "CIT(A)"] u/s 250 of the Income-tax Act, 1961 [hereinafter referred as "Act"]

for the relevant Assessment year [A.Y.] 2017-18, wherein learned CIT(A) has dismissed the assessee's appeal without adjudicating in respect of disallowance of relief u/s. 89 of the Act made vide assessment order dated 26.12.2019 u/s. 143(3) of the Act.

2. The brief facts of the appeal are that the appellant assessee e-filed his return of income on 24.04.2017 declaring his total income of Rs. 4561230/-. Thereafter the assessee filed revised return on 30.03.2019 declaring his income at Rs. 5292130/- for the assessment year 2017-18. The case was selected for scrutiny under CASS. After the service of notice Under Section 143(2) and notice Under Section 142(1), assessee filed detailed submissions before the Assessing Officer electronically. Assessment order Under Section 143(3) of the Act was passed on 26.12.19 accepting the income declared by the assessee, but without any observation in respect of the claim of the assessee in respect of his claim of relief of Rs. 14,55,018/- Under Section 89 of the Act. Assessee preferred an appeal before learned CIT(A) against the assessment order.

Learned CIT(A) dismissed the appeal stating that as the assessing officer gave no finding with regard to disallowance of relief Under Section 89 of the Act, thus there remains nothing to be adjudicated.

3. The appellant assessee has approached this tribunal on the following ground:

“1. (a) The Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [hereinafter referred as CIT(A)] erred in dismissing the appeal of the assessee by holding that there is no difference between the returned income and assessed income as the AO has accepted the returned income without appreciating the fact the Appellant has challenged the action of the AO in allowing the relief u/s 89 of the Act at Rs. 2,94,488/- as against the relief claimed by the assessee at Rs. 14,55,018/-.”

4. In response to the notice issued by this Tribunal, learned DR appeared and participated in the hearing of this appeal.
5. Heard learned representatives for both the parties and perused the material on record
6. Learned representative for the assessee submitted that neither Assessing Officer nor CIT(A) has discussed assessee's submissions as regards assessee's claim in respect of the relief Under Section 89 of the Act. Assessing Officer has allowed relief only at Rs.

2,94,488/- as against the relief claimed by the assessee at Rs. 14,55,108/-.

7. Learned DR has submitted that in view of the proviso to Section 89 of the Act, no such relief can be granted in respect of any amount received by the assessee on his voluntary retirement or termination of the service. Learned DR, has, however accepted the fact that neither Assessing Officer has passed reasoned order for the denial of such relief nor learned CIT(A) has adjudicated in this respect.
8. We have perused the paper book submitted by the assessee. Paper book at page 15 contains the particulars of assessee's income for the relevant assessment year 2017-18 in form no. 10E as provided under rule 21AA of the income tax rules 1962, where in details of advance of salary arrears have been described. Paper book at page 11 has the submissions of assessee in detail. However assessment order passed u/s. 143(3) of the Act, does not speak even in respect of any defect in the particulars submitted by the assessee.

9. Similarly, Learned CIT(A) has surprisingly passed the impugned order without adjudicating on the main issue involved, with the excuse that no finding was given by Assessing Officer with regard to the disallowance of relief Under Section 89.

10. It is well settled legal position that a quasi judicial authority is required to pass reasoned orders. The reasoned orders are the soul and one of the important component of the principles of natural Justice. We, therefore quash the non speaking impugned order dated 18.10.23 passed by learned CIT(A) and non speaking assessment order passed u/s. 143(3) of the Act by Assessing Officer. The case is restored to the file of assessing officer for making the reasoned assessment order afresh, after affording an opportunity of hearing to the appellant assessee.

11. In the result, the appeal is allowed.

Order pronounced on 27.05.2024.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Mumbai; Dated 27/05/2024
Anandi Nambi, *Steno*

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai